

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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| In the Matter of |) | |
| |) | |
| Amendments to Parts 1, 2, 27 and 90 of the |) | WT Docket No. 02-8 |
| Commission's Rules to License Services in the |) | RM-9267 |
| 216-220 MHz, 1390-1395 MHz, 1427-1429 |) | RM-9692 |
| MHz, 1429-1432 MHz, 1432-1435 MHz, |) | RM-9797 |
| 1670-1675 MHz, and 2385-2390 MHz |) | RM-9854 |
| Government Transfer Bands |) | RM-9882 |

To: The Commission

PETITION FOR CLARIFICATION

Final Analysis Communication Services, Inc., ("FACS"), by its attorneys, respectfully submits this Petition for Clarification of the *Service Rules Order* recently adopted in the above-referenced proceeding.¹ FACS is licensed to construct, launch and operate a Non-Voice Non-Geostationary Mobile Satellite Service ("NVNG MSS or "Little LEO") system.² As such, it is directly interested in service rules adopted in this proceeding for the 1390-1392 MHz and 1430-1432 MHz bands, which have been contingently allocated on a primary basis for MSS feeder uplinks and downlinks, respectively, subject to the adoption of an international allocation. FACS seeks clarification that the rules adopted in this proceeding may need to be modified, and the licenses granted to terrestrial operators pursuant to the new service rules may need to be

¹ Reallocation of the 216-220 MHz, 1390-1395 MHz, 1427-1429 MHz, 1429-1432 MHz, 1432-1435 MHz, 1670-1675 MHz and 2385-2390 MHz Government Transfer Bands, WT Docket No. 02-8, *Report and Order*, FCC-02-152 (rel. May 24, 2002), 67 Fed. Reg. 41,847 (June 20, 2002) ("*Service Rules Order*").

² Final Analysis Communication Services, Inc., *Order and Authorization*, 13 FCC Rcd. 6618 (Int'l Bur. 1998); Memorandum Opinion and Order, FCC 001-343 (rel. Dec. 3, 2001).

appropriately conditioned, to ensure that satellite operations will not suffer harmful interference if and when the contingencies attached to the primary MSS allocations are satisfied.

FACS participated in the associated reallocation proceeding.³ In that proceeding, the Commission adopted a new footnote, US368, to the Table of Frequency Allocations, providing that the 1390-1392 MHz and 1430-1432 MHz bands are allocated on a primary basis to NVNG MSS feeder uplinks and downlinks. These allocations are contingent on, and effective upon, the adoption of a worldwide feeder link allocation in the bands at the 2003 International Telecommunication Union World Radiocommunication Conference (WRC-03).⁴ In adopting this conditional allocation, the Commission stated its intent to accommodate the satellite as well as terrestrial interests in the use of this band.⁵ Although the primary MSS allocation is contingent, the *Reallocation Order* clearly contemplates that satellite and terrestrial users ultimately may share these bands.

In the *Reallocation Order*, the Commission determined that, to the extent necessary, issues concerning satellite licensing in these bands, including spectrum sharing with terrestrial operators, would be addressed in a separate proceeding once international allocations have been secured.⁶ Thus, the *Service Rules Order* was not intended to, and does not, establish service rules for satellite operations or address sharing issues between satellite and terrestrial operations

³ Reallocation of the 216-220 MHz, 1390-1395 MHz, 1427-1429 MHz, 1429-1432 MHz, 1432-1435 MHz, 1670-1675 MHz and 2385-2390 MHz Government Transfer Bands, ET Docket No. 00-221, *Report and Order and Memorandum Opinion and Order*, 17 FCC Rcd 368 (2002) (“*Reallocation Order*”).

⁴ Id. at ¶ 52.

⁵ Id. at ¶ 48.

⁶ Reallocation of the 216-220 MHz, 1390-1395 MHz, 1427-1429 MHz, 1429-1432 MHz, 1432-1435 MHz, 1670-1675 MHz and 2385-2390 MHz Government Transfer Bands, ET Docket No. 00-221, *Notice of Proposed Rulemaking*, FCC 02-15 (rel. Feb. 6, 2002), 67 Fed. Reg. 7113 (Feb. 15, 2002)(“*Reallocation Notice*”) at ¶ 77.

in these bands. FACS seeks clarification that, to the extent sharing issues may arise once international allocations have been secured, the service rules adopted for terrestrial operations may need to be modified so as not to preclude actual satellite operations.

For example, the Commission has adopted a flexible approach to the establishment of power and antenna height limits for terrestrial services in the 1390-1392 MHz band, setting a maximum limit of 2000 watt EIRP for fixed sites and 4 watts EIRP for mobile units.⁷ Terrestrial operations at such high power levels may cause harmful interference to Little LEO feeder links. However, it will be impossible to determine whether these rules will need to be modified and/or the conditions under which interference might actually occur until satellite operations are actually authorized and more information is known about the characteristics of the terrestrial systems that will also be authorized in these bands. FACS is concerned that licenses granted to terrestrial operators in the meantime not permanently preclude future accommodation of NVNG MSS operations, particularly in the 1390-1392 MHz band.

⁷ *Service Rules Order* at ¶ 137.

For this reason, FACS respectfully requests that the Commission clarify that licenses granted to terrestrial operators in the 1390-1392 MHz band will be subject to coordination, and possibly modification, to accommodate NVNG MSS feeder link operations if and when the contingent primary MSS allocations made in the *Reallocation Order* become effective.

Respectfully submitted,

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